

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
RAUL MORENO, Individually and on behalf  
of all others Similarly Situated,

Plaintiff,  
-against-

**ORDER**  
CV 11-436 (JS)(ARL)

NASSAU COUNTRY CLUB, et al.,

Defendant.  
-----X

**LINDSAY, Magistrate Judge:**

Before the court is the defendants' request for a conference to address their contemplated motion to dismiss for failure to prosecute and the plaintiff's response to the letter. The court finds that a conference is not necessary. The court can rule on the request based on the papers submitted.

On January 28, 2011, the plaintiff commenced this FLSA and New York Labor Law action, alleging, among other things, that the defendants had failed to pay him overtime and to include the fair value of room and board in determining his "regular rate." The defendants served the plaintiff with interrogatories and document requests on June 23, 2011, and noticed his deposition for August 22, 2011. Counsel for the plaintiff responded to the document requests by providing general objections to the document demand without any documents. The plaintiff did not verify his interrogatories, nor did he appear for his deposition because he had returned to Mexico.

Counsel for the plaintiff has indicated that he is in the process obtaining a public interest parole visa, which he hopes, with Senatorial intervention, will secure his client's testimony at trial. In addition, counsel has offered to make his client available for a telephone deposition. Although the undersigned does not believe that this case is ripe for a motion to dismiss, the court does find that discovery should be stayed based on counsel's representation. On or before October 31, 2011, counsel for the plaintiff is directed to advise the court of the status of his efforts. The court may reconsider the motion at that time.

Dated: Central Islip, New York  
September 26, 2011

**SO ORDERED:**

\_\_\_\_\_/s\_\_\_\_\_  
ARLENE R. LINDSAY  
United States Magistrate Judge